

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

- against -

ONE OR MORE UNKNOWN TRADERS IN THE
SECURITIES OF BIOVERATIV, INC.,

Defendants.

18-CV-00701-JGK

ECF CASE

MOTION FOR EXPEDITED DISCOVERY

Pursuant to its earlier request for a pre-motion discovery conference regarding expedited discovery (*see* Doc. # 26), and the Court's oral ruling at that conference granting the SEC's request, the Securities and Exchange Commission ("SEC") submits the attached proposed order for the Court's consideration. The SEC seeks expedited discovery prior to the Rule 26(f) conference, and alternative service,¹ in order to efficiently obtain discovery from the previously unknown trader(s) and associated third parties. *See* Fed. R. Civ. P. 26(d)(1) (court can authorize discovery prior to Rule 26(f) conference).

¹ Federal Rule of Civil Procedure 45 "does not explicitly demand personal service of a subpoena, but instead requires only that a copy be 'deliver[ed]' to the person whose attendance or production of documents is sought. Such language 'neither requires in-hand service nor prohibits alternative means of service.'" *Cordius Trust v. Kummerfeld*, 2000 WL 10268, at *2 (S.D.N.Y. Jan. 3, 2000) (quoting *King v. Crown Plastering Corp.*, 170 F.R.D. 355, 356 (E.D.N.Y. 1997)). Substitute service can be proper so long as it "comports with due process" and is "reasonably calculated under the circumstances to provide [the deponent] with both notice and an opportunity to present objections." *Id.* (citing *SEC v. Tome*, 833 F.2d 1086, 1093 (2d Cir. 1987)).

Dated this 7th day of December, 2018.

s/ Mark L. Williams

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing **MOTION FOR EXPEDITED DISCOVERY** with the Clerk of the Court for the USDC for the Southern District of NY by using the CM/ECF system on December 7, 2018. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

s/ Mark L. Williams